



## CLOSED CASE SUMMARY

ISSUED DATE: JUNE 30, 2023

FROM: DIRECTOR GINO BETTS   
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0225

### **Allegations of Misconduct & Director's Findings**

Named Employee #1

Allegation(s):		Director's Findings
# 1	13.030 - Emergency Vehicle Operations 3. Officers Shall Modify Their Emergency Response When Appropriate	Not Sustained - Lawful and Proper
# 2	16.090-POL 1 Recording with ICV and BWV 5. Employees Recording Police Activity b. When Employees Record Activity	Not Sustained - Unfounded

***This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.***

### **EXECUTIVE SUMMARY:**

The Complainant alleged he witnessed Named Employee #1 (NE#1) pull into turn lanes, activate emergency lights, drive at high speed through intersections, and deactivate emergency lights on at least three occasions. The Complainant further alleged that NE#1 waited to proceed at intersections without turn lanes. The Complainant believed NE#1 was not responding to calls.

### **ADMINISTRATIVE NOTE:**

Seattle's Office of Inspector General (OIG) certified OPA's investigation as thorough, timely, and objective.

### **SUMMARY OF INVESTIGATION:**

On July 26, 2022, a 9-1-1 dispatcher advised that a welfare check escalated to a potential kidnapping or hostage situation. The related computer-aided dispatch (CAD) call report indicated that at 8:56 p.m., North Precinct officers requested additional units. NE#1, assigned to the South Precinct, dispatched at 9:01 p.m. to a command post next to Business #1 in the North Precinct. Several other officers were dispatched to that command post.

Global positioning system (GPS) data revealed NE#1 exited northbound I-5 onto North 85<sup>th</sup> Street around 9:09 p.m. GPS data also revealed NE#1 traveled westbound on North 85<sup>th</sup> Street and Northwest 85<sup>th</sup> Street. The Complainant indicated he traveled westbound on North 85<sup>th</sup> Street on his motorcycle when he saw NE#1 repeatedly activate his emergency lights before running red lights. The Complainant also stated he caught up with NE#1 several times while going with the regular traffic flow. GPS data revealed NE#1, while traveling westbound on North 85<sup>th</sup> Street, came to complete stops then accelerated to speeds near 50 m.p.h. GPS data also revealed that NE#1 turned southbound on 24<sup>th</sup> Avenue Northwest. The CAD call report showed NE#1 arrived at the command post at 9:18 p.m.



OPA interviewed NE#1. NE#1 said he was requested to the command post because he was a hostage negotiator. OPA reviewed NE#1's training records, showing he attended the FBI Regional Crisis Negotiator course in April 2021 and an external Crisis Negotiations/Hostage Negotiation course in August 2021. During his drive to the command post, NE#1 said he did not recall a supervisor instructing him to modify or terminate his emergency driving.

Additionally, NE#1 said he utilized GPS navigation to reach the command post since he was unfamiliar with North Seattle. NE#1 said he activated his emergency lights at red traffic lights to clear the intersection and pass through traffic. He then deactivated his lights and resumed the normal traffic pattern. NE#1 believed responding to the call in a "hasty" or "expedited" fashion was necessary, which he described as a response quicker than the normal traffic pattern. He said the continuous use of lights and sirens was unwarranted. NE#1 said the intermittent use of his emergency lights was a tactic he learned from field training officers and colleagues. NE#1 also said that due to the nature of the call, he did not want to proceed with lights and sirens continuously activated because he did not want to alert the suspect of police presence.

OPA reviewed NE#1's in-car videos (ICV). NE#1's ICV began recording as he traveled southbound on 24<sup>th</sup> Avenue Northwest and remained active for the duration of his presence at the command post. However, ICV did not capture NE#1 traveling westbound on North 85<sup>th</sup> Street, as described by the Complainant. OPA reviewed NE#1's ICV Axon audit log, indicating that NE#1 manually activated his ICV at 9:17 p.m. NE#1 told OPA that activating his lightbar triggers the ICV recording but acknowledged a delay between lightbar activation and ICV activation. If NE#1 only "blipped" his lights to clear intersections, his ICV may not have had time to record automatically.

OPA reviewed other responding officers' ICV. Those ICVs showed varying emergency driving based on proximity to the command post. Officers near the post drove with minimal use of their emergency lights. Officers outside the North Precinct continuously activated their lights and sirens, then slowed as they approached the scene.

#### **ANALYSIS AND CONCLUSIONS:**

##### **Named Employee #1 - Allegation #1**

##### ***13.030 - Emergency Vehicle Operations 3. Officers Shall Modify Their Emergency Response When Appropriate***

The Complainant alleged NE#1 activated his emergency lights to violate traffic laws.

"Officers shall modify their emergency response when appropriate." SPD Policy 13.030-POL-3. Officers must modify or terminate their emergency driving when directed by a supervisor or "when the totality of the circumstances indicates that the risk of continuing the emergency driving outweighs the need." *Id.*

Here, a supervisor did not direct NE#1 to modify or terminate emergency driving. NE#1 modified his emergency response appropriately based on the facts known to him. First, NE#1 wanted to maintain a tactical advantage by not alerting a potential hostage-taker to police presence. So, he reasonably activated his emergency lights to pass through traffic intermittently. Leaving the lights and siren activated would compromise that strategy. Second, NE#1's presence at the potential hostage situation was necessary because he is a trained hostage negotiator. NE#1's expedited response to the command post—using intermittent lights—was reasonable based on the facts known to NE#1. Third, NE#1's sporadic use of his emergency lights was consistent with the actions of other responding officers outside their typical patrol area.



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Accordingly, OPA recommends this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained - Lawful and Proper**

**Named Employee #1 - Allegation #2**

***16.090-POL-1 Recording with ICV and BWV 5. Employees Recording Police Activity b. When Employees Record Activity***

It was alleged that NE#1 failed to activate ICV during a response.

When safe and practical, employees will record “[d]ispatched calls, starting before the employee arrives on the call to ensure adequate time to turn on cameras.” SPD Policy 16.090-POL-1(5)(b). Officers are permitted to exercise reasonable discretion in not recording under certain situations. SPD Policy 16.090-POL-1(5)(c).

Here, NE#1 was dispatched to a call. While NE#1’s ICV did not record the entirety of NE#1’s driving to the command post—particularly his driving on North 85<sup>th</sup> Street, which is at the heart of this complaint—NE#1 activated his ICV before his arrival. This policy requires the employee to start recording “before the employee arrives on the call.” NE#1 manually activated his ICV at 9:17 p.m. He arrived at the command post at 9:18 p.m. Therefore, NE#1 complied with this policy.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**